

4 March 1969

MEMORANDUM FOR THE RECORD

SUBJECT: H. R. 4204 - To Amend Section 6 of the War Claims Act
of 1948

1. H. R. 4204, introduced by Representative Byron G. Rogers (D., Colo.), is scheduled for hearing on 5 and 6 March before the Committee on Interstate and Foreign Commerce. The bill amends section 6 of the War Claims Act of 1948 to include prisoners of war captured during the Vietnam conflict. In essence, the bill will provide to military members of the Armed Forces a possible total of \$2.50 per day while a prisoner of war (\$1 for deficient quantity or quality of food and \$1.50 for inhumane treatment). To qualify for this payment the prisoner must be held by a hostile force with which the U.S. was actually engaged in armed conflict between 5 August 1964 and the date ending the Vietnam conflict.

2. The bill appears to be deficient in several major respects:

a. narrows potential eligibility period by starting coverage as of 5 August 1964 rather than 30 November 1961 or 28 February 1961, dates justified during the 90th Congress;

b. does not cover "civilian American citizen" as was done for World War II and Korean War (50 Appendix 2004(a), (g); and

c. does not reflect the new rates proposed during the 90th Congress in H. R. 15545 and S. 2260.

3. In addition to the above deficiencies, H. R. 4204 does not reflect the observations by DOD and the Foreign Claims Settlement Commission (in connection with the consideration of similar legislation in 1968) to extend coverage to areas outside of Vietnam. [REDACTED]

[REDACTED] have been advised that

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On file OMB release instructions apply.

Army, OSD, LEGL, Navy and USAF review(s) completed.

CIA INTERNAL USE ONLY

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H.R. 4204 is active and were requested to determine DOD's position with respect to the bill and whether DOD plans to testify. [REDACTED] Personnel, was also advised of the developments on this legislation and I will meet with him and [REDACTED] in an effort to determine the factual basis for an Agency position with respect to the bill.

STATINTL



Assistant Legislative Counsel

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CIA INTERNAL USE ONLY

SECRET

OGC 68-1659

28 August 1968

MEMORANDUM FOR: Office of Legislative Counsel

SUBJECT: HR 15545 - Amendment of the War Claims Act of 1948 to Provide Compensation for Civilian American Citizens and Prisoners of War Captured During the Vietnam Conflict

1. The attached copy of a report from the Foreign Claims Settlement Commission of the United States, dated 22 April 1968, provides an adequate analysis of the provisions of the proposed Bill, including comparisons to similar benefits awarded to World War II and Korean conflict beneficiaries.

2. It should be noted that detention benefits provided a "civilian American citizen" and those benefits provided "prisoners of war" are mutually exclusive. Under the language of the Bill only a regularly appointed, enrolled, enlisted, or inducted member of the Armed Forces of the United States can qualify as a "prisoner of war" and at the same time such a member is expressly excluded from qualifying as a "civilian American citizen." The Office of General Counsel, DOD, in a memorandum dated 13 May 1968 (attached hereto) has suggested that the term "prisoner of war" be enlarged to include "...a civilian employee of the Armed Forces of the United States...entitled to the status of a prisoner of war under the Geneva Convention of August 12, 1949, relative to the Treatment of Prisoners of War,...."

3. The Geneva Convention includes in its definition of persons qualifying as prisoners of war the following:

Persons who accompany the armed forces without actually being members thereof, such as civilian members of military aircraft crews, war correspondents, supply contractors, members of labour units or of services responsible for the welfare of the armed forces, provided they have authorization from the armed forces which they accompany, who shall provide them for that purpose with an identity card....

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There are probably Agency personnel whose cover documentation would place them in the above-defined category and therefore qualified for "prisoner of war" benefits. Other Agency personnel undoubtedly would qualify as "civilian American citizens" and be entitled to the benefits allowed thereunder.

4. Prisoners of war are entitled to payment of \$1.50 per day with respect to inadequate food rations and \$1.50 per day for forced labor and inhuman treatment for a total per diem payment of \$3, or approximately \$90 per month. Civilian American citizens held captive are entitled to detention benefits at the rate of \$75 per month if at least eighteen years of age. It can readily be seen that the benefits due a "prisoner of war" can exceed those due a "civilian American citizen." The above-mentioned Commission report on page 4 cites reference to the effect that there has been gross mistreatment of American civilians and prisoners of war in Vietnam, which in turn supports the view that "prisoners of war" will qualify for the maximum \$90 plus per month of captivity. It would appear, therefore, that the DOD suggested amendment would not be detrimental to nor decrease the amount of benefits due Agency personnel, but rather, in some cases, would increase the size of those benefits from \$75 per month to \$90 per month.

5. The Bill further defines a qualified "civilian American citizen" as one who is "...captured in North Vietnam or South Vietnam during the Vietnam conflict by any force hostile to the United States, or who went into hiding in North Vietnam or South Vietnam in order to avoid capture or internment by any such hostile force,...." The Bill further defines "prisoner of war" as one "...who was held as a prisoner of war for any period of time during the Vietnam conflict by any force hostile to the US...." Whereas a "civilian American citizen" is geographically bound to capture in North and South Vietnam, a "prisoner of war" could apparently be held in any geographic area by a hostile force and still qualify for benefits.

6. The Commission report on pages 4 and 5 suggests that the Bill be amended to provide that "civilian American citizens" captured by any force hostile to the U. S. in Southeast Asia should receive civilian detention benefits rather than limit the geographical area to North or South Vietnam. It suggests at the same time, however, that no similar change would be required with respect to "prisoners of war."

7. The Office of General Counsel, DOD, on the other hand, would amend the term "prisoner of war" to one "...held in custody by any force hostile to the U. S. in the East Asia and Pacific Area for any time during the Vietnam conflict...." It does not propose a similar amendment to the term "civilian American citizen."

8. We are of the opinion the Agency's interest would best be served by proposing that the term "civilian American citizen" be amended as suggested by the Foreign Claims Settlement Commission, enlarging, however, the geographical area to that proposed by DOD with respect to "prisoners of war"--East Asia and Pacific Area.

9. We would further propose that both paragraphs defining "civilian American citizen" and "prisoner of war" be further amended to adopt certain language of the Missing Persons Act (5 U.S.C. 5561), which would broaden the scope of applicability and in our opinion would not do harm to the basic intent of the proposed legislation. "Civilian American citizen" could be amended to include one who, "...during the Vietnam conflict, was captured by any force hostile to the U. S., went into hiding to avoid capture or internment by any such hostile force, was interned, or was detained against his will for reasons other than unauthorized activities, in the East Asia and Pacific Area, except...." "Prisoner of war" could be amended to include one who "...during the Vietnam conflict was held in custody by any force hostile to the U. S., was interned, or was detained against his will for reasons other than unauthorized activities, in the East Asia and Pacific Area, and who was entitled to the status of a prisoner of war...."

10. In summary, the DOD suggested amendments present no problem to Agency interests and in fact would, in some instances, increase the benefits due Agency personnel. The geographic bounds with respect to "civilian American citizens" should be enlarged as suggested in paragraph 8, hereof. We further suggest that both the "civilian American citizen" and "prisoner of war" definitions be amended to broaden the scope and type of custody, as per paragraph 9, hereof, or other similar language. Additionally, the Agency probably should support the proposal nearly unanimously accepted by other interested federal agencies, that "February 28, 1961" be substituted for December 1, 1961 as the beginning date of the Vietnam conflict. In this regard, see paragraph 4 on page 4 of the Commission Report.

25X1A

Office of General Counsel

Approved For Release 2004/01/12 : CIA-RDP71B00364R000500090005-9



OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE
WASHINGTON 25, D.C.

29 May 1968

INTERNATIONAL SECURITY AFFAIRS

25X1A

MEMORANDUM FOR OFFICE OF LEGISLATIVE COUNSEL, CIA

SUBJECT: Bills to Provide Compensation for Civilian American Citizens
and Prisoners of War Captured During the Vietnam Conflict

Pursuant to our telephone conversation of 29 May 1968, the attached documents are forwarded for background information on the subject bills.

The Congressional Committees considering these Bills (S. 2260 & H. R. 15545) have indicated that no action would be taken this Session. The additional time now available will be used to resolve, to the DOD PW Policy Committee's satisfaction, questions concerning the Bills' coverage and any other remaining problems.

All proposed revisions and comments should be sent to Mr. Ben Forman, DOD General Counsel, who also will obtain the State Department's views on the proposed legislation.

Officially, the "action" on the legislation will be transferred from the Navy to OASD (Manpower).

JOHN W. THORNTON
Captain USN
Special Assistant for PW Matters

8 Attachments

1. DOD GC Memo, May 13, 1968 (OUO)
2. AF Memo, May 13, 1968
3. Army Memo, 10 May 1968
4. Legislative Routing Slip, 29 Apr 68
5. Army Memo, 23 Apr 1968
6. Navy Memo, 18 Apr 1968
7. Legislative Routing Slip, 16 Apr 68
8. OASD/ISA Memo, 20 Mar 68 (C)

~~CONFIDENTIAL~~

WILL WITH ATTACHMENTS

DEPARTMENT OF DEFENSE

OFFICE OF GENERAL COUNSEL

WASHINGTON 25, D.C. 20301

In reply refer to:

I-6321/68

May 13, 1968

MEMORANDUM FOR MR. CHARLES HAVENS, ASSISTANT TO ASD/ISA

SUBJECT: H. R. 15545, A Bill to provide compensation for civilian American citizens and prisoners of war captured during the Vietnam conflict

This memorandum responds to the requests made at the last POW Policy Committee meeting that this office draft some amendments to the subject bill.

The first request was to broaden the scope of the bill to include military and civilian personnel held by Red China and North Korea. For this purpose, it is suggested that lines 16 through 24 on page 5 of the bill be stricken and the following substituted:

"(B) The term 'prisoner of war' means any person who, being then a regularly appointed, enrolled, enlisted, or inducted member of the Armed Forces of the United States or a civilian employee of the Armed Forces of the United States, was held in custody by any force hostile to the United States, in the East Asia and Pacific Area for any time during the Vietnam conflict and who was entitled to the status of a prisoner of war under the Geneva Convention of August 12, 1949, relative to the Treatment of Prisoners of War, while so held, except any such person who, at any time, voluntarily, knowingly, and without duress, gave aid to or collaborated with, or in any manner served, such hostile force."

A technical conforming change should also be made on page 2 of the bill by deleting the word "or" in line 16, by changing the period to a comma on line 18 and inserting the following after the comma "or (iii) a civilian employee of the Armed Forces of the United States." In addition, the words "Armed Forces of the" should be deleted from lines 6-7 and 12 on page 8 of the bill.

The second request was to provide language to accommodate the evidentiary problems concerning collaboration with the enemy. To this end, it is suggested that on page 8 of the bill lines 13 through 16 be deleted, paragraphs (6) and (7) be redesignated as (7) and (8) respectively, and that the following new paragraph (5) be inserted:

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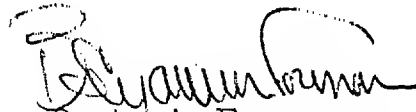
FOR OFFICIAL USE ONLY

"(5) No claim shall be allowed by the Commission under the provisions of this subsection prior to the date on which the Vietnam conflict ends. The Commission shall complete its determinations with respect to each claim filed under this subsection not later than one year from whichever of the following dates last occurs:

"(A) the date on which the Vietnam conflict ends; or

"(B) the date on which such claim was filed."

If the same treatment is desired for non-POW American civilians, the same change should be made to lines 17-20 on page 4 of the bill.



Benjamin Forman
Assistant General Counsel
International Affairs

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DEPARTMENT OF THE AIR FORCE

WASHINGTON 20330



OFFICE OF THE SECRETARY

May 13, 1968

File: H. R. 15545 (90)

MEMORANDUM FOR CHIEF OF LEGISLATIVE AFFAIRS
DEPARTMENT OF THE NAVY

INFORMATION TO CHIEF OF LEGISLATIVE LIAISON
DEPARTMENT OF THE ARMY

THE GENERAL COUNSEL
DEPARTMENT OF DEFENSE
Attention: Director, Legislative
Reference Service

SUBJECT: H. R. 15545, 90th Congress, a bill "To provide compensation for civilian American citizens and prisoners of war captured during the Vietnam conflict."

Reference your memorandum of 18 April 1968, same subject, transmitting for coordination Department of the Navy proposed report on subject bill.

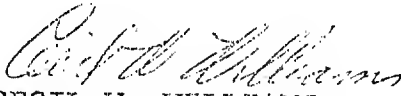
Subject to the following, the Department of the Air Force has no objection to the Department of the Navy report.

For a more factual statement of the purpose of the bill, it is recommended that the first sentence of the second paragraph be revised to read:

"This bill, if enacted, would grant to civilian American citizen internees and prisoners of war during the Vietnam conflict (i.e., after November 30, 1961) benefits similar to those authorized to persons captured during World War II and the Korean conflict."

In the fifth sentence of the second paragraph, substitute "H. R. 15545" for "S. 2260."

cc: SAF-GC
SAF-AA
SAF-MRP
SAF-FMA
AFS-1C


CECIL W. WILLIAMS
Major, USAF
Congressional Legislation Division
Office of Legislative Liaison



Approved For Release 2004/01/12 : CIA-RDP71B00364R000500090005-9

DEPARTMENT OF THE ARMY
OFFICE OF THE SECRETARY OF THE ARMY
WASHINGTON, D.C. 20310

EXTRA COPY

10 May 1968

MEMORANDUM FOR: THE SECRETARY OF THE NAVY
Attn: Chief of Legislative Affairs

INFORMATION TO: GENERAL COUNSEL, DEPARTMENT OF DEFENSE
Attn: Director, Legislative Reference Service

THE SECRETARY OF THE AIR FORCE
Attn: Director, Legislative Liaison

SUBJECT: H. R. 15545, a bill, "To provide compensation for civilian American citizens and prisoners of war captured during the Vietnam conflict."

1. Reference is made to your memorandum dated 18 April 1968, forwarding for coordination a proposed report on subject bill.
2. The Department of the Army concurs in the proposed report provided it is amended to use 28 February 1961 as the beginning date for the benefits.

FOR THE CHIEF OF LEGISLATIVE LIAISON:

JAMES F. SENICHAL

LTC, GS

Legislative Division

LEGISLATIVE ROUTING SLIP

FROM: ASSISTANT GENERAL COUNSEL
INTERNATIONAL AFFAIRS

DATE: 29 April 1968
SUSPENSE DATE: --

SUBJECT: S. 2260

TO:

ASD/ISA

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DASD/ISA

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ODMA

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DIRECTOR OF:

MAP POLICY REVIEW

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EUROPEAN REGION

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NESA REGION

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FAR EAST REGION

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WESTERN HEMISPHERE REGION

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AFRICAN REGION

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ARMS CONTROL

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TRADE CONTROL

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FOREIGN MILITARY RIGHTS AFFAIRS

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POLICY PLANNING STAFF

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ILN

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ISA EXECUTIVE OFFICER

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FOR:

INFORMATION

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COMMENTS AND RECOMMENDATIONS

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PREPARATION OF DOD REPORT

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REMARKS:

Copy of report from the Foreign Claims Settlement Commission
of the United States dated 22 April 1968 attached.



DEPARTMENT OF THE ARMY
OFFICE OF THE SECRETARY OF THE ARMY
WASHINGTON, D.C. 20310

23 April 1968

MEMORANDUM FOR ASSISTANT SECRETARY OF DEFENSE (ISA)

SUBJECT: Comments Requested on DOD PW Policy Committee Agenda
Items of 5 April 1968


1. Reference Agenda Item #1, you requested comments on the JCS repatriation paper. I have reviewed the subject paper and concur with it as written.

2. Reference Agenda Item #5, the following comments are submitted.

a. With regard to the amount, recommend that computation be on the basis of the Korean rate plus cost of living increase since that time.

b. The Act should cover individuals held prisoner for political reasons by a hostile power anywhere, rather than limited to Vietnam or vicinity.

c. OSD should be authorized to set a date for application six months after the hostile power has released those U.S. persons it acknowledges having captured and held. Payment should be made by the Department concerned as soon thereafter as is administratively feasible. This is necessary to assure there is no payment of persons released who have been dishonorable in captivity and will permit time to establish from the other captives the character of behavior of released individuals.


C. Owen Smith
Special Assistant to the
Secretary of the Army

DEPARTMENT OF THE NAVY
OFFICE OF LEGISLATIVE AFFAIRS
WASHINGTON, D. C. 20350

Action Officer
LCOL Zorack
Ext. 56035
In reply refer to
LA-34:lpd

18 APRIL 1968

MEMORANDUM

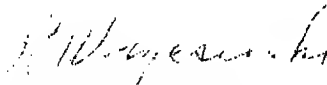
For: Chief of Legislative Liaison
Department of the Army

Director, Legislative Liaison
Department of the Air Force

Subj: H.R. 15545, a bill "To provide compensation for civilian
American citizens and prisoners of war captured during the
Vietnam conflict."

Encl: (1) Proposed report on subject bill

1. There is enclosed for coordination the report which the Department
of the Navy proposes to submit on subject bill.


R. WRZESINSKI
Captain, U. S. Navy
Director, Legislative Division

Copy to:
General Counsel, DOD

OFFICE OF LEGISLATIVE AFFAIRS

WASHINGTON, D. C. 20350

In reply refer to
LA-34:1pd

Dear Mr. Chairman:

Your request for comment on H.R. 15545, a bill "To provide compensation for civilian American citizens and prisoners of war captured during the Vietnam conflict", has been assigned to this Department by the Secretary of Defense for the preparation of a report thereon expressing the position of the Department of Defense.

This bill, if enacted, would grant benefits to American citizens internees and prisoners of war similar to those benefits authorized to persons captured during World War II and the Korean conflict. Detention benefits derived during these periods for civilian internees were at a rate of \$60 per month (\$25 per month for persons under 18 years of age). The bill would provide comparable benefits of \$75 and \$30 per month, respectively. Benefits for prisoners of war during these periods consisted of \$1 per day of captivity for inadequate food and \$1.50 per day for forced labor or inhuman treatment contrary to the Geneva Convention of July 27, 1929. S. 2260 would increase such benefits to \$3 per day instead of \$2.50. In this regard since the rates of compensation to be authorized are relatively low, it is recommended that such rates be determined with due consideration to the dollar depreciation since the enactment of previous legislation.

It is noted that "Civilian American citizens" must be captured in North or South Vietnam during the Vietnam conflict by any force hostile to the United States in order to benefit from any provisions of the bill. Due to the nature of the Vietnam conflict, it may be more appropriate to provide that civilian American citizens captured by any force hostile to the United States should receive benefits rather than limit the geographical area to North or South Vietnam.

The Department of the Navy on behalf of the Department of Defense, subject to the foregoing, does not object to the enactment of H.R. 15545.

This report has been coordinated within the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

The Bureau of the Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this report on H.R. 15545 for the consideration of the Committee.

For the Secretary of the Navy.

Sincerely,

Honorable Harley O. Staggers
Chairman, Committee on Interstate and
Foreign Commerce
House of Representatives
Washington, D. C. 20515

LEGISLATIVE ROUTING SLIP

FROM: ASSISTANT GENERAL COUNSEL
INTERNATIONAL AFFAIRS

DATE: 16 April 1968
SUSPENSE DATE:

SUBJECT: S. 2260 "To provide compensation for civilian American
citizens & prisoners of war captured during the Vietnam
conflict."

TO:

ASD/ISA

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DASD/ISA

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ODMA

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DIRECTOR OF:

MAP POLICY REVIEW

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EUROPEAN REGION

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NESA REGION

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FAR EAST REGION

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WESTERN HEMISPHERE REGION

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AFRICAN REGION

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ARMS CONTROL

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TRADE CONTROL

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FOREIGN MILITARY RIGHTS AFFAIRS

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POLICY PLANNING STAFF

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ILN

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ISA EXECUTIVE OFFICER

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FOR:

INFORMATION

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COMMENTS AND RECOMMENDATIONS

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PREPARATION OF DOD REPORT

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REMARKS:

Copy of report on above and revised pages attached.

BEST COPY

AVAILABLE

EXECUTIVE OFFICE OF THE PRESIDENT
BUREAU OF THE BUDGET
WASHINGTON, D.C. 20503

OCT 9 1977

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer
Defense Department
State Department
Agency for International Development

SUBJECT:

FCSC report on S. 2260, "FC provide compensation for civilian American citizens and prisoners of war captured during the Vietnam conflict."

The Bureau of the Budget would appreciate receiving the views of your agency on this subject before advising on its relationship to the program of the President.

() In order to permit expeditious coordination and clearance in accordance with Circular A-19, it is requested that your reply be made within thirty (30) days.

(xx) Special circumstances require that this be handled as a priority matter and that your views be received as soon as possible. Sponsor is pushing.

Questions should be referred to Mr. Joe C. Ray, Bureau of the Budget, code 103, extension 4700.

J.F.C. Hyde, Jr.
for Assistant Director for
Legislative Reference

Enclosures



FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES

WASHINGTON, D.C. 20579

Honorable James O. Eastland
Chairman, Committee on the Judiciary
United States Senate
Washington, D. C.

Dear Mr. Chairman:

Further reference is made to your request of August 17, 1967 for a report by the Foreign Claims Settlement Commission on S. 2260, 90th Congress, a bill to provide compensation for civilian American citizens and prisoners of war captured during the Vietnam conflict.

The purpose of the bill is clearly stated in its title. S. 2260 is in two sections. Section 1 relates to detention benefits for civilian American citizens. Section 2 provides for prisoner of war compensation.

Generally, the language of S. 2260 is derived from sections 5(g) and 6(c) of the War Claims Act of 1948, as amended, which provide, respectively, for civilian detention and prisoner of war benefits to individuals who were captured and held as civilian internees or military prisoners of war during the Korean conflict after June 25, 1950.

Section 1 of the bill would add a new subsection "(1)" to section 5 of the War Claims Act of 1948, as amended. Eligible claimants would be civilian American citizens who held that status at the time of capture in North or South Vietnam by any force hostile to the United States. Included among the eligible claimants would be persons forced to go into hiding to avoid such capture and internment, as under present law. Persons who voluntarily and knowingly aided or collaborated with the enemy and members of the Armed Forces of the United States are expressly excluded from sharing in the civilian detention benefits authorized under this section.

Proposed new subsection (1)(2) provides that the compensable period of detention must fall within a period subsequent to November 30, 1961. There is no closing date for the overall period within which detention shall have occurred. However, the bill defines the term "Vietnam Conflict" as relating to the period beginning on December 1, 1961, and ending on such date as shall thereafter be determined by Presidential proclamation or concurrent resolution of Congress. Subsection (1)(3) authorizes a rate of payment of \$75 for each calendar month during which a civilian American citizen was at least 18 years of age and at the

Hon. James O. Eastland

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rate of \$30 per month for each calendar month during which such citizen was under 18 years of age. World War II and Korea conflict civilian internees were entitled, respectively, to benefits at the monthly rates of \$60 and \$25. Provision is made in proposed subsection (i)(4) for payment to specified survivors only, as under the present Act. Proposed subsections (i)(5), (i)(6), and (i)(7) relate respectively, to the method of payment, require claims to be filed within 3 years from the date of enactment of the amendment, and authorizes appropriations for payment of the benefits provided for.

Section 2 of the bill would add new subsection "(f)" to section 6 of the War Claims Act of 1948, as amended. Proposed subsection (f)(1), in defining the term, "prisoner of war", adopts the language of sections 6(a) and 6(c) of the present act and applies it to the Vietnam conflict. The compensatory period within which claimant must have been a prisoner of war, is the same period required for civilian detention benefits in section 1 of the bill, namely, the period beginning on December 1, 1961 and ending on such date as hereafter may be determined by the President or by joint resolution of Congress. The only class of war prisoners excluded from those eligible for benefits, are members of the Armed Forces "who, at any time, voluntarily and knowingly gave aid to, collaborated with, or in any manner served" the hostile force by which they were captured.

Proposed new subsection (f)(2), (f)(3), and (f)(4) provide for the types of claims that may be filed. The language used follows closely the language of section 6(c) of the Act, with respect to Korean conflict prisoners. However, the bill contains two major differences. The first is the amount of compensation to be awarded. The second difference relates to the Geneva Convention of August 12, 1949 rather than to the 1929 Convention.

Compensation awarded to World War II and Korean prisoners was \$1.00 per day with respect to the failure of the detaining force to furnish the quantity or quality of food prescribed for prisoners of war under the terms of the Geneva Convention of July 27, 1929 and \$1.50 per day in violation of the 1929 Convention relating to labor and inhumane treatment of prisoners. The bill proposes payment of \$1.50 per day with respect to inadequate food rations and \$1.50 per day for forced labor and inhumane treatment for a total per diem payment of \$3.00 as against \$2.50 for the World War II and Korean prisoners.

With respect to World War II prisoners, the Act presently refers to "violations" of the Geneva Convention of July 27, 1929 by the enemy government. A change under the Act with respect to the Korean prisoners

Hon. James O. Eastland

- 3 -

of war was necessary due to the fact that neither the governments of North Korea or Communist China were parties to this convention, and technically, could not be said to have violated its terms. Accordingly, only reference to the provisions of that convention was used in determining whether inadequate food or other inhumane treatment constitute the grounds for a compensable claim by a prisoner of war in Korea. Thus, the question was eliminated of whether the hostile force had "violated" the terms of the convention as was the case with respect to World War II prisoners.

Although the Commission understands that the Government in North Vietnam is a party to the Geneva Convention of August 12, 1949, having acceded to it on June 28, 1957, the bill provides language similar to that under which the Korean prisoner of war claims were decided.

In making provision for payments in case of the death of the person entitled thereto, the bill requires payment "in the order established, by subsection (d)(4) of this section" of the War Claims Act of 1948, as amended. In other words, such awards would be made to (1) the widow or husband if there is no child or children of the deceased, (2) the widow or husband and child or children of the deceased, one-half to the widow or husband and the other half to the child or children of the deceased in equal shares, (3) the child or children in equal shares if there is no surviving spouse and finally, (4) parents in equal shares if there is no widow, husband, or child.

Claims authorized under the bill must be filed not later than 3 years from whichever of the following dates last occurs; (a) the date of enactment of the bill; (b) the date the prisoner is returned to the jurisdiction of the United States; or (c) the date upon which the Department of Defense makes a presumptive date of death. The Commission is required, however, by the bill to complete determinations with respect to such claims "at the earliest practicable date, but in no event later than one year after the date on which such claim was filed."

Finally, the bill requires payment of Vietnam war prisoner claims from appropriated funds, authorizes such appropriations, and requires the Commission, from time to time, to determine the share of its administrative expenses attributable to the performance of its functions under the proposed subsections. The Commission would then make appropriate adjustments in its accounts, and its determination and adjustment would be final under the bill. Such provisions are similar to those enacted by the 83rd Congress with respect to claims of civilian internees and prisoners of war in the Korean conflict.

Hon. James O. Eastland

Precedents for the type of claims program proposed under S. 2260, of course, have been established by prior Congresses.

The Commission, after a study of the material contained in the recent State Department so-called white-paper on Vietnam prisoners of war (Vietnam Information Notes, Office of Media Service, Bureau of Public Affairs, Department of State, Number 9 August 1967), and the research material prepared by the Foreign Affairs Division, Legislative Reference Service, Library of Congress as published in the Congressional Record on August 9, 1967 (Vol. 113, No. 125, pages S 11181 - S 11187), is of the opinion that there has been a gross mistreatment of American civilians and prisoners of war in Vietnam and that such individuals should be provided some measure of relief over and above their regular pay and allowances.

The amount or extent of personal suffering, hardships, maltreatment, malnutrition and other deprivations suffered by American citizens captured and held by the enemy since the beginning of World War II cannot, of course, be measured in monetary benefits nor does there appear any differences as to the degree of treatment afforded to such prisoners in World War II, the Korean conflict, and the Vietnam conflict. Accordingly, the Commission would recommend that should relief be provided, it conform to the amounts which have been heretofore available under the War Claims Act of 1948, as amended, to American civilian and prisoners of war who were captured and held by the enemy during World War II and the Korean conflict. These amounts are \$60 per month for American civilians over 18 years of age and \$2.50 per day for military prisoners of war.

The Commission is not in possession of sufficient information to enable it to express an opinion respecting the necessity or desirability at this time of dealing with claims arising out of the Vietnam conflict. In this connection, the Commission understands that there are approximately 650 Americans who are either classed as prisoners or missing in North and South Viet-Nam. The total number of prisoners is not known because there has been no identification of such prisoners despite the provisions of the Geneva Convention which requires the detaining power to make such identity. It is known that only a few prisoners have escaped their captors and, therefore, would be in a position to file their claims for prisoner of war benefits within a short time after the enactment of S. 2260.

In the event, however, the Congress deems it advisable to enact the proposed bill at this time, the Commission would not be opposed to it. However, the Commission would recommend that the benefits proposed thereunder be uniform with the benefits heretofore provided to the World War II and Korean prisoners and internees.



OFFICE OF GENERAL COUNSEL
WASHINGTON, D. C. 20301

April 9, 1968

MEMORANDUM FOR THE SECRETARY OF THE ARMY

Attention: Chief of Legislative Liaison

THE SECRETARY OF THE NAVY

Attention: Chief of Legislative Affairs

THE SECRETARY OF THE AIR FORCE

Attention: Director, Legislative Liaison

THE ASSISTANT SECRETARY OF DEFENSE (ISA)

Attention: Assistant General Counsel (International Affairs)

THE ASSISTANT SECRETARY OF DEFENSE (Manpower and

Reserve Affairs)

SUBJECT: S.2260, 90th Congress, a bill "To provide compensation for civilian American citizens and prisoners of war captured during the Vietnam conflict."

On October 10, 1967, this office circulated copies of a proposed report of the Foreign Claims Settlement Commission on S.2260.

The report has been revised as a result of the comments of the Department of Defense and other agencies.

Attached for your information are revised pages which reflect the changes.

Frank J. Sherlock

Director

Legislative Reference Service

Hon. James O. Eastland

Precedents for the type of claims program proposed under S. 2260, of course, have been established by prior Congresses.

The Commission, after a study of the material contained in the recent State Department so-called white-paper on Vietnam prisoners of war (Vietnam Information Notes, Office of Media Service, Bureau of Public Affairs, Department of State, Number 9 August 1967), and the research material prepared by the Foreign Affairs Division, Legislative Reference Service, Library of Congress as published in the Congressional Record on August 9, 1967 (Vol. 113, No. 125, pages S. 11181 - S. 11187), is of the opinion that there has been a gross mistreatment of American civilians and prisoners of war in Vietnam and that such individuals should be provided some measure of relief over and above their regular pay and allowances.

The amount or extent of personal suffering, hardships, maltreatment, malnutrition and other deprivations suffered by American citizens captured and held by the enemy since the beginning of World War II cannot, of course, be measured in monetary benefits nor does there appear any differences as to the degree of treatment afforded to such prisoners in World War II, the Korean conflict, and the Vietnam conflict. Accordingly, the Commission would recommend that relief be provided to American civilians and prisoners of war who were captured and held by the enemy during the Vietnam conflict.

The Commission is not in possession of sufficient information to enable it to express an opinion respecting the necessity or desirability at this time of dealing with claims arising out of the Vietnam conflict. In this connection, the Commission understands that there are approximately 650 Americans who are either classed as prisoners or missing in North and South Viet-Nam. The total number of prisoners is not known because there has been no identification of such prisoners despite the provisions of the Geneva Convention which requires the detaining power to make such identity. It is known that only a few prisoners have escaped their captors and, therefore, would be in a position to file their claims for prisoner of war benefits within a short time after the enactment of S. 2260.

The attention of the Committee is invited to the fact that the date of "February 28, 1961" has been used in other legislation as the beginning date of the Vietnam conflict and marks the approximate date when American military advisers began to accompany their Vietnamese counterparts on military operations. Accordingly, it is suggested that the date "February 28, 1961" be substituted for the date "December 1, 1961" as such dates appear on line 3, page 2 and line 13, page 5. The date of

Hon. James O. Eastland

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"November 31, 1961" as it presently appears on line 23, page 2 would necessarily require a change to "February 27, 1961," if the "December 1, 1961" date is amended.

The Committee's attention is again invited to the possibility that "civilian American citizens" may have been captured by any force hostile to the United States in areas in Southeast Asia other than North or South Vietnam. Due to the nature of the Vietnam conflict, it may be more appropriate to provide that civilian American citizens captured by any enemy military force hostile to the United States in Southeast Asia should receive civilian detention benefits rather than limit the geographical area to North or South Vietnam. Accordingly, the Commission recommends that the words "North Vietnam or South Vietnam" as such words appear on lines 9 and 10, and 11 and 12, page 2 of the bill, be amended to read "Southeast Asia." No similar change would be required with respect to "prisoners of war" under section 2 of the bill.

In the event, however, the Congress deems it advisable to enact the proposed bill at this time, the Commission would not be opposed to it. Moreover, the Commission feels that the amount of the benefits provided for is a matter of legislative policy.

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OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE
WASHINGTON, D.C. 20301

INTERNATIONAL SECURITY AFFAIRS

20 March 1968

MEMORANDUM FOR MR. WARNKE

SUBJECT: Senate and House Bills to Compensate Captured American Servicemen and Civilians

These bills, if enacted, would grant benefits similar to those benefits authorized to persons captured during WWII and the Korean War. Detention benefits derived during these periods for civilian internees were \$60 per month (\$25 per month for persons under age 18). These bills would provide \$75 and \$30 per month, respectively. Benefits for PW's consisted of \$1 per day of captivity for inadequate food plus \$1.50 per day for forced labor or inhuman treatment. These bills would increase such benefits to \$3 per day.

Senator Hansen, when introducing S.2260 on 9 August 1967, quoted in part from your letter to him dated 1 April 1967. This was written while you were General Counsel of the DOD. The full text of your letter was printed in the record and identified as Exhibit 1. That portion of the Congressional Record is attached for your information, with your stated views outlined in red. Also attached is the companion House Bill 15545 delivered on the House floor 26 February 1968, containing PW/MIA figures supplied by you and the Armed Forces Management Magazine article written by Craig Powell, with our collaboration, plus Congressman Harrison's letter of thanks.

The Navy Department was assigned as the "Action" Agency within DOD on S.2260. There was no objection aside from comments on the relatively low (\$3) compensation rate and geographically limiting this compensation to captives in North or South Vietnam. In my opinion the \$3 is adequate regardless of dollar depreciation. Military pay is still being received while captured, and the periodic pay raises hopefully adjust for the rising cost of living. The second comment is logical since our PW/MIA's are also in Laos, Cambodia, etc.

Lastly, the filing of claims should not be permitted until cessation of hostilities, PW exchanges are completed and the individual PW's honor (no aid to or collaboration with the enemy) is established. As these bills stand now and if the sponsors desire quick enactment, there is nothing to stop the present group of escapees/returnees back in our hands, from applying for their \$3 a day.

5 Attachments

1. Cong. Record-Senate
2. Cong. Record-House
3. ASD/ISA ltr, 13 Feb 68
4. Craig Powell article
5. Cong. Harrison's ltr, 6 Mar 68

J. W. THORNTON
Captain, U.S. Navy
Assistant for PW Matters

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CONFIDENTIAL

COMPENSATION

Captain Thornton's letter

SECRET

Journal - Office of Legislative Counsel
Wednesday - 29 May 1968

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- 25X1 7. [] Met with Representative Lipscomb and scheduled
25X1A a meeting for 2:00 p.m. Monday, 3 June, for Mr. Proctor, Mr. Brammell
and [] to discuss the NIS program with Mr. Lipscomb. This
is by way of follow up to a request made in the CIA Appropriations Sub-
committee briefing of 17 May. Mr. Proctor and Mr. Brammell have been
advised.
- 25X1 8. [] Attempted to meet with Mr. John
Sullivan, Administrative Assistant to Senator Brewster, several times
during the day but he was away from his office.
- 25X1 9. [] Met with Mr. Bun Bray, House Subcommittee
on Manpower and Civil Service staff. Mr. Bray advised that at the present
no further hearings have been scheduled by Chairman Henderson. The
Subcommittee will meet again in executive session on Wednesday, 5 June,
after which it is anticipated that announcement will be made concerning
hearings on the wage board bill. It is possible that consideration will be
given during that meeting to scheduling of hearings on other bills such as
S. 1035.
- 25X1 10. [] Delivered to Miss Virginia Laird, Personal
25X1B Secretary to Senator Symington, a []
- 25X1 11. [] Met with Mr. J. R. Blandford, House Armed
Services Committee staff, and provided him with a blind memorandum
entitled "Franco-Soviet Military Cooperation". Also reviewed with Mr.
Blandford the previous conversation with him, for the Chairman's benefit,
on this subject. Mr. Blandford indicated that he would pass the information
on to the Chairman. He also noted that he thought this would be an item of
interest to the Chairman.
- 25X1 12. [] Spoke with Mr. Charles Havens,
Special Assistant to Secretary Warnke, concerning legislation to update the
War Crimes Act of 1948 to include the "Vietnam conflict." Mr. Havens
explained that the bill, H.R. 15545, would not be acted upon this Congress, but
reviewed with me certain language justifications they have proposed. Mr.
Havens then arranged for me to speak with Captain John Thornton, USN, who
is following this legislation in detail and Captain Thornton is sending us
material of interest from his files.



FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES

WASHINGTON, D.C. 20579

April 22, 1968

SECRET

Honorable James O. Eastland
Chairman, Committee on the Judiciary
United States Senate
Washington, D. C.

Dear Mr. Chairman:

Further reference is made to your request of August 17, 1967 for a report by the Foreign Claims Settlement Commission on S. 2260, 90th Congress, a bill to provide compensation for civilian American citizens and prisoners of war captured during the Vietnam conflict.

The purpose of the bill is clearly stated in its title. It is in two sections. Section 1 relates to detention benefits for civilian American citizens. Section 2 provides for prisoner of war compensation.

Generally, the language of S. 2260 is derived from sections 5(g) and 6(e) of the War Claims Act of 1948, as amended, which provide, respectively, for civilian detention and prisoner of war benefits to individuals who were captured and held as civilian internees or military prisoners of war during the Korean conflict after June 25, 1950.

Section 1 of the bill would add a new subsection "(i)" to section 5 of the War Claims Act of 1948, as amended. Eligible claimants would be civilian American citizens who held that status at the time of capture in North or South Vietnam by any force hostile to the United States. Included among the eligible claimants would be persons forced to go into hiding to avoid such capture and internment, as under present law. Persons who voluntarily and knowingly aided or collaborated with the enemy and members of the Armed Forces of the United States are expressly excluded from sharing in the civilian detention benefits authorized under this section.

Proposed new subsection (i)(2) provides that the compensable period of detention must fall within a period subsequent to November 30, 1961. There is no closing date for the overall period within which detention shall have occurred. However, the bill defines the term "Vietnam Conflict" as relating to the period beginning on December 1, 1961, and ending on such date as shall thereafter be determined by Presidential proclamation or concurrent resolution of Congress. Subsection (i)(3) authorizes a rate of payment of \$75 for each calendar month during which a civilian

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American citizen was at least 18 years of age and at the rate of \$30 per month for each calendar month during which such citizen was under 18 years of age. World War II and Korean conflict civilian internees were entitled, respectively, to benefits at the monthly rates of \$60 and \$25. Provision is made in proposed subsection (i)(4) for payment to specified survivors only, as under the present Act. Proposed subsections (i)(5), (i)(6), and (i)(7) relate respectively, to the method of payment, requires claims to be filed within 3 years from the date of enactment of the amendment, and authorizes appropriations for payment of the benefits provided for.

Section 2 of the bill would add new subsection "(f)" to section 6 of the War Claims Act of 1948, as amended. Proposed subsection (f)(1), in defining the term, "prisoner of war", adopts the language of sections 6(a) and 6(e) of the present act and applies it to the Vietnam conflict. The compensatory period within which claimant must have been a prisoner of war, is the same period required for civilian detention benefits in section 1 of the bill, namely, the period beginning on December 1, 1961 and ending on such date as thereafter may be determined by the President or by joint resolution of Congress. The only class of war prisoners excluded from those eligible for benefits, are members of the Armed Forces "who, at any time, voluntarily and knowingly gave aid to, collaborated with, or in any manner served" the hostile force by which they were captured.

Proposed new subsections (f)(2), (f)(3), and (f)(4) provide for the types of claims that may be filed. The language used follows closely the language of section 6(a) of the Act, with respect to Korean conflict prisoners. However, the bill contains two major differences. The first is the amount of compensation to be awarded. The second difference relates to the Geneva Convention of August 12, 1949 rather than to the 1929 Convention.

Compensation awarded to World War II and Korean prisoners was \$1.00 per day with respect to the failure of the detaining force to furnish the quantity or quality of food prescribed for prisoners of war under the terms of the Geneva Convention of July 27, 1929 and \$1.50 per day in violation of the 1929 Convention relating to labor and inhumane treatment of prisoners. The bill proposes payment of \$1.50 per day with respect to inadequate food rations and \$1.50 per day for forced labor and inhumane treatment for a total per diem payment of \$3.00 as against \$2.50 for the World War II and Korean prisoners.

With respect to World War II prisoners, the Act presently refers to "violations" of the Geneva Convention of July 27, 1929 by the enemy government. A change under the Act with respect to the Korean prisoners

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of war was necessary due to the fact that neither the governments of North Korea or Communist China were parties to this convention, and technically, could not be said to have violated its terms. Accordingly, only reference to the provisions of that convention was used in determining whether inadequate food or other inhumane treatment constitute the grounds for a compensable claim by a prisoner of war in Korea. Thus, the question was eliminated of whether the hostile force had "violated" the terms of the convention as was the case with respect to World War II prisoners.

Although the Commission understands that the Government in North Vietnam is a party to the Geneva Convention of August 12, 1949, having acceded to it on June 28, 1957, the bill provides language similar to that under which the Korean prisoner of war claims were decided.

In making provision for payments in case of the death of the person entitled thereto, the bill requires payment "in the order established, by subsection (d)(4) of this section" of the War Claims Act of 1948, as amended. In other words, such awards would be made to (1) the widow or husband if there is no child or children of the deceased, (2) the widow or husband and child or children of the deceased, one-half to the widow or husband and the other half to the child or children of the deceased in equal shares, (3) the child or children in equal shares if there is no surviving spouse and finally, (4) parents in equal shares if there is no widow, husband, or child.

Claims authorized under the bill must be filed not later than 3 years from whichever of the following dates last occurs; (a) the date of enactment of the bill; (b) the date the prisoner is returned to the jurisdiction of the United States; or (c) the date upon which the Department of Defense makes a presumptive date of death. The Commission is required, however, by the bill to complete determinations with respect to such claims "at the earliest practicable date, but in no event later than one year after the date on which such claim was filed."

Finally, the bill requires payment of Vietnam war prisoner claims from appropriated funds, authorizes such appropriations, and requires the Commission, from time to time, to determine the share of its administrative expenses attributable to the performance of its functions under the proposed subsections. The Commission would then make appropriate adjustments in its accounts, and its determination and adjustment would be final under the bill. Such provisions are similar to those enacted by the 83rd Congress with respect to claims of civilian internees and prisoners of war in the Korean conflict.

Hon. James O. Eastland

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Precedents for the type of claims program proposed under S. 2260, of course, have been established by prior Congresses.

The Commission, after a study of the material contained in the recent State Department so-called white-paper on Vietnam prisoners of war (Viet-nam Information Notes, Office of Media Service, Bureau of Public Affairs, Department of State, Number 9 August 1967), and the research material prepared by the Foreign Affairs Division, Legislative Reference Service, Library of Congress as published in the Congressional Record on August 9, 1967 (Vol. 113, No. 125, pages S. 11181 - S 11187), is of the opinion that there has been a gross mistreatment of American civilians and prisoners of war in Vietnam and that such individuals should be provided some measure of relief over and above their regular pay and allowances. Accordingly, the Commission would recommend that relief be provided to American civilians and prisoners of war who were captured and held by the enemy during the Vietnam conflict.

The Commission understands that there are approximately 650 Americans who are either classed as prisoners or missing in North and South Vietnam. The total number of prisoners is not known because there has been no identification of such prisoners despite the provisions of the Geneva Convention which requires the detaining power to make such identity. However, in addition to at least several eligible survivors, it is known that a few prisoners have been released or escaped their captors and they, therefore, would be in a position to file claims for benefits within a short time after the enactment of S. 2260.

The attention of the Committee is invited to the fact that the date of "February 28, 1961" has been used in other legislation as the beginning date of the Vietnam conflict and marks the approximate date when American military advisers began to accompany their Vietnamese counterparts on military operations. Accordingly, it is suggested that the date "February 28, 1961" be substituted for the date "December 1, 1961" as such dates appear on line 3, page 2 and line 13, page 5. The date of "November 31, 1961" as it presently appears on line 23, page 2 would necessarily require a change to "February 27, 1961," if the December 1, 1961" date is amended.

The Committee's attention is also invited to the possibility that "civilian American citizens" may have been captured by any force hostile to the United States in areas in Southeast Asia other than North or South Vietnam. Due to the nature of the Vietnam conflict, it may be more

Hon. James O. Eastland

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appropriate to provide that civilian American citizens captured by any enemy military force hostile to the United States in Southeast Asia should receive civilian detention benefits rather than limit the geographical area to North or South Vietnam. Accordingly, the Commission recommends that the words "North Vietnam or South Vietnam" as such words appear on lines 9 and 10, and 11 and 12, page 2 of the bill, be amended to read "Southeast Asia." No similar change would be required with respect to "prisoners of war" under section 2 of the bill.

The Commission favors enactment of S. 2260 but feels that the amount of the benefits provided for is a matter of legislative policy.

The Bureau of the Budget advises that enactment of legislation along the lines of S. 2260 would be consistent with the administration's objectives.

Sincerely yours,

Leonard v. E. Sutton
Chairman

20 March 1968

MEMORANDUM FOR THE RECORD

SUBJECT: H.R. 15545 - 90th Congress, Second Session

1. H.R. 15545 updates the War Claims Act of 1948 to include the "Vietnam conflict." It provides additional benefits which appear to be payable to Federal civilian employees without any offset of Missing Persons Act payments. The benefits extend back to December 1, 1961.

2. It also updates "prisoner of war" benefits arising out of the Vietnam conflict. This, by the terms of the bill, applies to members of the Armed Forces.

3. There appears to be a statutory precedent for this bill for the "Korean conflict."

4. H.R. 15545 has been distributed to: FE, and SAV. It is not active.

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Distribution:

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OLC/LLM:rw (21 March 1968)

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COMMENT		FILE	RETURN
CONCURRENCE		INFORMATION	SIGNATURE

Remarks:

Attached is material we received from DOD concerning proposed legislation to update the War Claims Act of 1948 to include the "Vietnam conflict." Please advise us if you concur in DOD's position and any changes you would recommend.

STATINTL

Office of Legislative Counsel

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FROM: NAME, ADDRESS AND PHONE NO.		DATE
OLC	7D35	6 June 68
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